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LORETTA G. WHYTE
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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CITY OF NEW ORLEANS; CFI INDUSTRIES, INC.,
formerly doing business as Letellier Phillips Paper
Company; DELTA BY-PRODUCTS, INC.;
EDWARD LEVY METALS, INC,

Defendants.

Civil Action No.

02-3618

SECT. K MAG. 2

COMPLAINT

The United States of America, by the authority of the Attorney General of the United States and through the undersigned attorneys, acting at the request of the Administrator of the United States Environmental Protection Agency ("EPA"), files this Complaint and alleges as follows:

NATURE OF THE ACTION

1. This is a civil action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, ("CERCLA"), 42 U.S.C. § 9601 et seq., for recovery of response costs incurred during the period from October 1, 1980 through December 31, 2001 by the United States in response to releases and threatened releases of

hazardous substances into the environment from the Agriculture Street Landfill Superfund Site ("Site"), located in the city of New Orleans, Orleans Parish, Louisiana pursuant to Section 107 of CERCLA, 42 U.S.C. § 9607 and for civil penalties of up to \$27,500 per violation per day pursuant to Section 104(e)(5)(B) of CERCLA and Pub. L. No. 104-134, 61 Fed. Reg. 69,360 (1996) for Defendant City of New Orleans failure to comply with Section 104(e)(2) of CERCLA.

JURISDICTION AND VENUE

2. This Court has exclusive jurisdiction over the subject matter of this action under Sections 107 and 113(b) of CERCLA, 42 U.S.C. §§ 9607 and 9613(b), and 28 U.S.C. §§ 1331 and 1345.

3. Venue properly lies in the Eastern District of Louisiana under Section 113(b) of CERCLA, 42 U.S.C. § 9613(b), and 28 U.S.C. § 1391, because the Site is located in this district and these claims arise in connection with releases of hazardous substances that have occurred in this district.

DEFENDANTS

4. Defendant City of New Orleans ("City") is a Louisiana municipality.

5. Defendant CFI Industries, Inc. is a Delaware corporation with its principal place of business in Illinois. Defendant is the successor in interest to the liabilities of Letellier-Phillips Paper Company.

6. The Phillips Paper Stock Company was formed as a Louisiana corporation on or about September 21, 1908.

7. On or about November 23, 1912, The Phillips Paper Stock Company changed its name to Letellier-Phillips Paper Company. At relevant times, Letellier-Phillips Paper Company operated a facility in New Orleans, Louisiana.

8. On or about September 27, 1974, Letellier-Phillips Paper Company merged into Consolidated Fibres, Inc. Consolidated Fibres, Inc. succeeded to the liabilities of Letellier-Phillips Paper Company.

9. In or about 1993, Consolidated Fibres, Inc. changed its name to CFI Industries, Inc.

10. Defendant Delta By-Products, Inc. is a Louisiana corporation. At relevant times, Delta By-Products, Inc. operated a facility in New Orleans, Louisiana.

11. Defendant Edward Levy Metals, Inc. is a Louisiana corporation. At relevant times, Edward Levy Metals, Inc. operated a facility in New Orleans, Louisiana.

THE SITE

12. The Site consists of approximately 95 acres, which includes residential and commercial areas, a school, community center, playgrounds, and undeveloped property.

13. During the period from approximately 1909 through at least 1969, the City operated a dump and/or sanitary landfill at the Site. During that time period it also conducted activities at the Site related to surface grading. The Site was operated by the City as a dump/landfill for residential, commercial, and industrial waste. Beginning in 1948, or earlier, and continuing until at least 1958, Letellier-Phillips Paper Company conducted salvage operations on a portion of the Site. Beginning in 1948, or earlier, and continuing until at least

1969, Defendant Delta By-Products, Inc. conducted salvage operations on a portion of the Site.

EPA'S ACTIONS AT THE SITE

14. In May 1986, EPA conducted a Site Inspection, and in September 1993, EPA completed an Expanded Site Inspection at the Site.

15. In 1994, EPA identified arsenic, lead, and polynuclear aromatic hydrocarbons ("PAHs") among other hazardous substances as contaminants of potential concern at the Site.

16. In March 1994, in a time-critical removal action, EPA installed a fence around the entire undeveloped portion of the Site, consisting of approximately 48 acres.

17. On December 16, 1994, the Site was added to the National Priorities List ("NPL") of uncontrolled hazardous substance releases, 40 C.F.R. Part 300, Appendix B, which was promulgated pursuant to Section 105(a) of CERCLA, 42 U.S.C. § 9605(a).

18. For purposes of investigation and response action, EPA divided the Site into five (5) operable units: Operable Unit 1 is 48 acres of undeveloped property; Operable Unit 2 includes residential developments; Operable Unit 3 includes the Shirley Jefferson Community Center and associated playground; Operable Unit 4 is the Moton Elementary School, Magrauer Playground and recreation center; and Operable Unit 5 is the groundwater.

19. On September 2, 1997, EPA issued an Action Memorandum for Operable Units 1-3 and a Record of Decision for Operable Units 4-5 at the Site. The Action Memorandum provided for a non-time-critical removal action at Operable Units 1-3. The Record of Decision provided for no action to be taken at Operable Units 4-5.

20. On October 19, 1998, EPA response crews began the non-time-critical removal action on Operable Units 1-3 at the Site.

21. On October 12, 2001, after completing the removal action on Operable Units 1-3 at the Site, EPA issued its Proposed Plan of Action to not conduct further action on Operable Units 1, 2 and 3.

22. On April 4, 2002, EPA issued its No Action Record of Decision, which concludes that no further action is necessary because previous responses have eliminated the need for further action.

GENERAL ALLEGATIONS

23. Each Defendant is a "person" as defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

24. The Site is contaminated with hazardous substances as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), and set forth at 40 C.F.R. § 302.4.

25. Hazardous substances located in the surface and subsurface soil at the Site, include, but are not limited to, lead, arsenic, and PAHs.

26. There have been releases or threatened releases, within the meaning of Section 101(22) of CERCLA, 42 U.S.C. § 9601(22), of hazardous substances into the environment at or from the Site.

27. The Site, including but not limited to the buildings, structures, installations, equipment, pipelines, wells, pits, ponds, lagoons, impoundments, ditches, landfills, storage containers, motor vehicles, and rolling stock, associated with the salvage or dump/landfill

operations, is a "facility" as defined in Section 101(9)(B) of CERCLA, 42 U.S.C. § 9601(9)(B).

28. EPA conducted investigations and removal actions at the Site to address risks to human health and the environment from the release of hazardous substances.

29. In the course of undertaking response actions regarding the release or threat of release of hazardous substances at the Site, the United States has incurred unreimbursed response costs, within the meaning of Section 101(25) of CERCLA, 42 U.S.C. § 9601(25), in excess of \$42,000,000, as of December 31, 2001.

30. The response action taken and the response costs incurred by the United States at the Site are not inconsistent with the National Contingency Plan ("NCP"), 40 C.F.R. Part 300.

31. The United States will continue to incur response costs, including enforcement costs, for actions taken in response to the release or threatened release of hazardous substances from the Site.

SPECIFIC ALLEGATIONS OF LIABILITY

32. Defendant City is liable under Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1) because it was the owner of a portion of the Site at a time when hazardous substances were disposed of at the Site, and it continues to own a portion of the Site. Defendant City is liable under Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1) because it was the operator of the dump/landfill at the Site at a time when hazardous substances were disposed of at the Site. Defendant City by contract, agreement or otherwise arranged for disposal or treatment of hazardous substances at the Site or arranged for the transport for disposal or treatment of hazardous substances at the Site within the meaning of

Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3), and it selected the Site for the disposal of hazardous substances and transported hazardous substances for disposal to the Site within the meaning of Section 107(a)(4) of CERCLA, 42 U.S.C. § 9607(a)(4).

33. Defendant CFI Industries, Inc. is liable under Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1) because it is the successor in interest to Letellier-Phillips Paper Company, the owner and operator of a portion of the Site at a time when hazardous substances were disposed of at the Site. Defendant CFI Industries, Inc. also is liable under Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3) as the successor in interest to Letellier-Phillips Paper Company, a person that by contract, agreement or otherwise arranged for disposal or treatment of hazardous substances at the Site or arranged for the transport for disposal or treatment of hazardous substances at the Site.

34. Defendant Delta By-Products, Inc. is liable under Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1) because it was the owner of a portion of the Site at a time when hazardous substances were disposed of at the Site, and it continues to own a portion of the Site. Defendant Delta By-Products, Inc. is liable under Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1) because it was the operator of a portion of the Site at a time when hazardous substances were disposed of at the Site.

35. Defendant Edward Levy Metals, Inc. by contract, agreement or otherwise arranged for disposal or treatment of hazardous substances at the Site or arranged for the transport for disposal or treatment of hazardous substances at the Site within the meaning of Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3).

STATUTORY AUTHORITY

36. Section 104(e)(2) of CERCLA, 42 U.S.C. § 9604(e)(2), provides, in pertinent part:

Any officer, employee, or representative [of the President, duly designated by the President,] . . . may require any person who has or may have information relevant to any of the following to furnish, upon reasonable notice, information or documents relating to such matter:

(A) The identification, nature, and quantity of materials which have been or are generated, treated, stored, or disposed of at a vessel or facility or transported to a vessel or facility.

(B) The nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from a vessel or facility.

37. Section 104(e)(5)(B)(ii) of CERCLA, 42 U.S.C. § 9604(e)(5)(B)(ii), further provides that

The President may ask the Attorney General to commence a civil action to compel compliance with a request

. . . .

The court may assess a civil penalty... for each day of noncompliance against any person who unreasonably fails to comply with the provisions of paragraphs (2)

38. Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), provides in pertinent part:

Notwithstanding any other provision or rule of law, and subject only to the defenses set forth in subsection (b) of this section -

- (1) the owner and operator of a vessel or a facility,
- (2) any person who at the time of disposal of any hazardous substance owned or operated any facility at which such hazardous substances were disposed of,
- (3) any person who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by such person, by any other party or entity, at any facility or incineration vessel owned or operated by another party or entity and containing such hazardous substances, and
- (4) any person who accepts or accepted any hazardous substances for transport to disposal or treatment facilities, incineration vessels or sites selected by such person, from which there is a release, or a threatened release which causes the incurrence of response costs, of a hazardous substance, shall be liable for -
 - (A) all costs of removal or remedial action incurred by the United States Government or a State or an Indian tribe not inconsistent with the national contingency plan;
 - (B) any other necessary costs of response incurred by any other person consistent with the national contingency plan;
 - (C) damages for injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction, or loss resulting from such a release; and
 - (D) the costs of any health assessment or health effects study carried out under section 9604(i) of this title.

The amounts recoverable in an action under this section shall include interest on the amounts recoverable under subparagraphs (A) through (D). Such interest shall accrue from the later of (i) the date payment of a specified amount is demanded in writing, or (ii) the date of the expenditure concerned.

FIRST CLAIM FOR RELIEF AGAINST DEFENDANTS

39. The allegations contained in Paragraphs 1 through 35 and 38 are realleged and incorporated herein by reference.

40. Pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), Defendants are liable to the United States for all unreimbursed response costs incurred and to be incurred by the United States with respect to the Site, including but not limited to costs of investigation, removal action, oversight, and enforcement activities.

41. Pursuant to Section 113(g) of CERCLA, 42 U.S.C. § 9613(g), the Court should enter a declaratory judgement that Defendants are liable, jointly and severally, for future response costs incurred by the United States at the Site.

42. Pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), Defendants also are liable for prejudgment interest on the United States' response costs commencing on the later of the date such costs were demanded or the date such costs were incurred.

SECOND CLAIM FOR RELIEF AGAINST DEFENDANT CITY

43. The allegations contained in Paragraphs 1 through 4, 12-32, and 37-38 are realleged and incorporated herein by reference.

44. On November 28, 2000, the United States, acting through Myron O. Knudson, a duly authorized representative employed by EPA as the Director of the Superfund Division of EPA's Region VI, sent to Defendant, Marc Morial, Mayor of New Orleans, a Request for Information (the "Information Request"), pursuant to Section 104(e) of CERCLA, 42 U.S.C. § 9604(e). This Information Request sought a "complete and truthful response" within thirty (30) days of receipt of the Information Request. (See attached Exhibit A.)

45. The Information Request sought information relating to one or more of the categories of information set forth in Subsections 104(e)(2) of CERCLA, 42 U.S.C. § 9604(e)(2), including information regarding the generation, storage and release of hazardous

substances at the Site, operations conducted at the Site, and additional information related to the United States' pursuit of a cost recovery action or other CERCLA enforcement action in connection with the Site.

46. On December 19, 2000, Defendant City requested EPA to extend the deadline for the City's response to the Information Request so that the response would be due on January 28, 2001.

47. By letter dated May 10, 2001, EPA informed Defendant City that its response to the Information Request was inadequate and requested the City to provide alternate information sources to compensate for the City's failure to provide information about the Agriculture Street dump.

48. On numerous other occasions, EPA, through its representatives, requested the City to provide information from sources within the control of the City that pertained to information requested in the Information Request, and the City did not provide the requested information.

49. Defendant City never provided the specific information about the dump that was requested by EPA, including but not limited to the following types of information: dates of operation, copies of leases and agreements, the identity of transporters, a description of the dump operations, lists of industrial and commercial facilities located in the vicinity from which waste was accepted, the physical characteristics of the dump, and information about insurance policies, and it never provided names and locations of other City waste facilities that existed during the 1909-1968 time period.

50. Defendant City never provided a full and complete response to the Information Request.

51. Defendant City unreasonably failed to comply with the Information Request.

52. Pursuant to Section 104(e)(5)(B) of CERCLA and Pub. L. No. 104-134, 61 Fed. Reg. 69,360 (1996), Defendant is liable to the United States for a civil penalty in an amount not to exceed \$27,500 per day for each day on and after January 28, 2001, that Defendant failed and continues to fail to comply with Section 104(e)(2) of CERCLA.

THIRD CLAIM FOR RELIEF AGAINST DEFENDANT CITY

53. The allegations contained in Paragraphs 1-4 are realleged and incorporated herein by reference.

54. In 1999, the United States filed an action in this Court entitled United States v. City of New Orleans, Civil Action No. 99-0756, for injunctive relief and a civil penalty against the Defendant City because said Defendant refused to provide access to the Site. The United States prevailed in its request for injunctive relief in that action.

55. The Complaint and the judicial decisions from that case, which is a collateral proceeding, pursuant to LR 3.1, are realleged and incorporated herein by reference.

56. Pursuant to Subsection 104(e)(5)(B) of CERCLA, 42 U.S.C. § 9604(e)(5)(B), Pub. L. No. 104-134, 61 Fed. Reg. 69,360 (1996), Defendant City is liable to the United States for a civil penalty in an amount not to exceed \$27,500 per day for each day from March 8, 1999, when Defendant City failed to provide access to EPA, as requested by an Administrative Order issued by EPA, until April 1, 1999, when the Court ordered the City to provide access.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, the United States of America, respectfully requests this

Court to:

(a) Enter judgment in favor of the United States and against each Defendant, jointly and severally, for reimbursement of all costs incurred and paid by the United States in responding to releases or threatened releases of hazardous substances at the Site, including all enforcement costs relating to this action and all applicable pre-judgment interest;

(b) Enter a declaratory judgment of joint and several liability against each Defendant and in favor of the United States that will be binding in future actions to recover further response costs related to the Site;

(c) Award the United States its enforcement costs, and disbursements in this action;

(d) Award the United States a civil penalty of up to \$27,500/day for each day after January 28, 2001 that the Defendant City unreasonably failed to comply with the Information Request, and for each day that Defendant City continues to unreasonably fail to comply with the Information Request.

(e) Award the United States a civil penalty in the amount of \$27,500/day for each day from March 8, 1999 until the Court ordered the City to provide access on April 1, 1999; and

(f) Grant such other further relief as the Court may deem just and proper.

Respectfully submitted,

Thomas L. Sansonetti
Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice

Jeffrey M. Prieto
Scott E. Stewart
Trial Attorneys
Environmental Enforcement Section
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
Telephone: (202) 616-7915/(202) 514-5508

James Letten
United States Attorney
Eastern District of Louisiana

OF COUNSEL:

Pam Travis
Senior Attorney
Joseph E. Compton III
Attorney/Advisor
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, Texas 75202

Clarence Feathersen
Attorney/Advisor
U.S. EPA
Office of Site Remediation Enforcement
Washington, D.C.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

NOV 28 2000

PROMPT REPLY NECESSARY**CERTIFIED MAIL: RETURN RECEIPT REQUESTED** 7000 0520 0022 2562 8470
8494Honorable Marc Morial
Mayor of New Orleans
1300 Perdido Street
New Orleans, LA 70112Re: Request for Information Pursuant to Section 104 of CERCLA for the Agriculture Street
Landfill Superfund Site, New Orleans, La.

Dear Mayor Morial:

This letter seeks your cooperation in providing information and documents relating to the contamination of the Agriculture Street Landfill Superfund Site ("Site") in New Orleans, Louisiana. We encourage you to give this matter your immediate attention and to provide a complete and truthful response to this Information Request and enclosed questions (Attachment 3) within thirty (30) days of your receipt of this letter.

The United States Environmental Protection Agency ("EPA") is investigating the release or threat of release of hazardous substances, pollutants or contaminants at the Site. The EPA is seeking to obtain information concerning the generation, storage, treatment, transportation, and disposal methods of these substances and the effect on the environment and public health and to identify activities, materials, and parties that contributed to contamination at the Site. The EPA believes that you might possess information which may assist the Agency in its investigation of the Site.

The Agriculture Street Landfill Superfund Site (ASL) is a former city dump and landfill comprised of approximately 95 acres of land, of which 48 acres are undeveloped and approximately 47 acres have been developed for residential use. The site is located within the eastern city limits of New Orleans, approximately three miles south of Lake Pontchartrain, less than one mile from the Industrial Canal, and 2.5- 3 miles north-northeast of the central business district. A map depicting the location of the landfill is enclosed as Attachment 4.

Information available to EPA indicates that landfill operations began in approximately 1909 and continued until the landfill was closed. Illegal dumping on the undeveloped portion of the site continued until 1994. A 1951 Refuse Disposal Study for New Orleans reported that the site was used as a disposal facility for commercial refuse from 1909 through 1934. During this period, practically all household garbage generated within the municipality of New Orleans was

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Exhibit A

disposed of by incineration and a portion of the resulting ash was landfilled at the Site. During the years 1934-1939, a restrictive budget limited the incineration of household wastes causing the site to be opened to receive municipal and commercial waste. Between the years 1939-1942, incineration again became the chief means for the reduction of household garbage. During World War II, a lack of labor again diverted household wastes to the Agriculture Street Landfill. Actual operation of the landfill as a permanent sanitary, controlled facility began in October 1948. A contract was awarded for salvage materials to be recovered and a five year lease was signed with the landowner. The report states that poor operation and inadequate supervision during this period resulted in fires and other nuisances at the location. The lease was renewed in 1953; the City continuously operated the landfill until about 1959.

The landfill was reopened in 1965 to receive debris resulting from the effects of Hurricane Betsy. Debris was reported deposited at a rate of up to 300 truckloads per day and open burning was used as a means of waste reduction. The landfill reportedly was officially closed in 1966. The City had an obligation to grade the Site at least until 1969. An elementary school, recreation center, community center, small shopping center, and residences were subsequently constructed on about 47 acres of the property.

In September of 1993, at the request of residents from the Agriculture Street Landfill area, EPA conducted an Expanded Site Inspection. The information was used to evaluate the Site under the revised 1990 Hazardous Ranking System. The site ranked and was proposed for inclusion on the National Priorities List (NPL) on August 23, 1994; the ranking became a final rulemaking on December 16, 1994. Prior to 1994, access to the undeveloped portion of the former landfill was unrestricted, allowing continued unauthorized waste disposal and exposure to lead, arsenic, and polynuclear aromatic hydrocarbons (PAHs) found in the surface and subsurface soil. In a time-critical removal action, initiated in March 1994, EPA installed an 8-foot chain link fence around the entire undeveloped portion of the former landfill.

Concurrent with the removal action, EPA performed a Remedial/Removal Integrated Investigation (RRII) of the entire site. The RRII fieldwork was conducted from April 4 through June 20, 1994. Samples of surface and subsurface soil, sediment, surface water, groundwater, air dust, tap water, garden produce, and paint chips collected during the field investigation were submitted to specialized laboratories for analysis. Aerial photographs, geophysical investigations and computer modeling were used to supplement the analytical data in defining site boundaries and evaluating migration pathways. These data were also used to prepare a Human Health Risk Assessment and Ecological Risk Assessment.

The EPA conducted a second time-critical removal action at the site in February, 1995, to address soil in a children's play area at the Press Park Community Center which exhibited surface soil lead contamination above 1,000 milligrams per kilogram (mg/kg). Playground equipment was removed, the resulting depression was built up to grade with clean backfill, and the entire area was covered with heavy sod to create a restrictive barrier limiting contact with contaminated soil. The EPA conducted a third time-critical removal action in March of 1996, to repair the fence around the undeveloped property.

On September 2, 1997, EPA issued a Record of Decision (ROD) and an Action Memorandum selecting the response action for this site. The Action Memorandum selected a non-time-critical removal action for Operable Unit (OU) Nos. 1 (undeveloped property), 2 (residential property), and 3 (community center). The ROD concluded that no further action was required at the Moton Elementary School (designated Operable Unit (OU) No. 4) and the groundwater (OU No. 5). Removal operations began in October 1998; Phase I activities were concluded in the early months of 2000. The EPA remobilized to the site in September of 2000 to conduct the response action on single-family homes where access has now been obtained. As of December 31, 1999, EPA had expended public funds in the amount of approximately \$26,436,591 to investigate and respond to contamination at the Site.

Under Section 104(e)(2) of CERCLA, 42 U.S.C. § 9604(c)(2), EPA has broad information gathering authority which allows EPA to require persons to furnish information or documents relating to:

- (A) The identification, nature, and quantity of materials which have been or are generated, treated, stored or disposed of at a vessel or facility or transported to a vessel or facility; and,
- (B) The nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from a vessel or facility.

While EPA seeks your cooperation in this investigation, compliance with the Information Request is required by law. In addition, providing false, fictitious, or fraudulent statements or representations may subject you to criminal penalties under 18 U.S.C. 1001. The information you provide may be used by EPA in administrative, civil or criminal proceedings. Some of the information EPA is requesting may be considered by you to be confidential. Please be aware that you may not withhold the information upon that basis. If you wish EPA to treat the information confidentially, you must advise EPA of that fact by following the procedures outlined in Attachment 1, including the requirement for supporting your claim for confidentiality.

If you have information about other parties who may have information which may assist the Agency in its investigation of the site or may be responsible for the contamination at the Site, that information must be submitted within the timeframe noted above.

Section 104 of CERCLA, 42 U.S.C. §9604, authorizes EPA to pursue penalties for failure to comply with that section or for failure to respond adequately to requests for submissions of required information.

This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. §3501 et seq.

Instructions on how to respond to the questions in Attachment 3 to this document are described in Attachment 1. Your response to this Information Request should be mailed to:

U.S. Environmental Protection Agency
Lydia Behn, Enforcement Officer (6SF AC)
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202

If you have questions about the history of the site, the nature of the environmental conditions at the Site, the status of cleanup activities, or this information request, please contact Pamela J. Travis or Joseph E. Compton, III, Assistant Regional Counsels at (214) 665-8056 or (214) 665-8506.

We appreciate and look forward to your prompt response to this information request.

Sincerely yours,

Myron O. Knudson, P.E.
Director
Superfund Division

Enclosures

cc: Evelyn Pugh, Esq.
Deputy City Attorney

Information Request
City of New Orleans, Respondent

Attachment 1
Instructions

1. Answer Every Question Completely.

A separate response must be made to each of the questions set forth in this Information Request. For each question contained in this letter, if information responsive to this information request is not in your possession, custody, or control, please identify the person(s) from whom such information may be obtained. If your response is based on information contained in a document, identify the document and provide a copy with your response.

2. Number Each Answer.

Precede each answer with the corresponding number of the question and the subpart to which it responds.

3. Provide the Best Information Available.

Provide responses to the best of Respondent's ability, even if the information sought was never put down in writing or if the written documents are no longer available. You should seek out responsive information from current and former employees/agents. Submission of cursory responses when other responsive information is available to the Respondent will be considered non-compliance with this Information Request. If you cannot answer all parts of a question, you still must answer the portions of the question about which you have information.

4. Identify Sources of Answer.

For each question, identify (see Definitions) all the persons and documents that you relied on in producing your answer.

5. Continuing Obligation to Provide/Correct Information.

If additional information or documents responsive to this Request become known or available to you after you respond to this Request, EPA hereby requests pursuant to CERCLA Section 104(c) that you supplement your response to EPA.

6. Confidential Information.

The information requested herein must be provided even though you may contend that it includes confidential information or trade secrets. You may assert a confidentiality claim covering part or all of the information requested, pursuant to Sections 104(e)(7)(F) and (F) of CERCLA, 42 U.S.C. § 9604(c)(7)(E) and (F), and Section 3007(b) of RCRA, 42 U.S.C. § 6927(b), and 40

C.F.R. § 2.203(b).

If you make a claim of confidentiality for any of the information you submit to EPA, you must prove that claim. For each document or response you claim confidential, you must separately address the following points:

1. the portions of the information alleged to be entitled to confidential treatment;
2. the period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
3. measures taken by you to guard against the undesired disclosure of the information to others;
4. the extent to which the information has been disclosed to others, and the precautions taken in connection therewith;
5. pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of any such determinations or reference to them, if available; and
6. whether you assert that disclosure of the information would likely result in substantial harmful effects on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

To make a confidentiality claim, please stamp, or type, "confidential" on all confidential responses and any related confidential documents. Confidential portions of otherwise nonconfidential documents should be clearly identified. You should indicate a date, if any, after which the information need no longer be treated as confidential. Please submit your response so that all non-confidential information, including any redacted versions of documents are in one envelope and all materials for which you desire confidential treatment are in another envelope.

All confidentiality claims are subject to EPA verification. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so, and that it is not and has not been obtainable by legitimate means without your consent. Information covered by such claim will be disclosed by EPA only to the extent permitted by CERCLA Section 104(e). If no such claim accompanies the information when it is received by EPA, then it may be made available to the public by EPA without further notice to you.

7. Disclosure to EPA Contractor.

Information which you submit in response to this Information Request may be disclosed by EPA to authorized representatives of the United States, pursuant to 40 C.F.R. 2.310(h), even if you assert that all or part of it is confidential business information. Please be advised that EPA intends to disclose all responses to this Information Request to one or more of its private contractors for the purpose of organizing and/or analyzing the information contained in the responses to this Information Request. If you are submitting information which you assert is entitled to treatment as confidential business information, you may comment on this intended

disclosure within twenty one (21) days of receiving this Information Request.

8. Personal Privacy Information.

Personnel and medical files, and similar files the disclosure of which to the general public may constitute an invasion of privacy should be segregated from your responses, included on separate sheet(s), and marked as "Personal Privacy Information."

9. Objections to Questions.

If you have objections to some or all the questions within the Information Request letter, you are still required to respond to each of the questions.

Information Request
City of New Orleans, Respondent

Attachment 3

Questions

1. State the dates during which the City owned, operated, leased, or otherwise used any portion of the Site and provide copies of all documents evidencing, authorizing or otherwise relating to such ownership, operation, lease, or use including but not limited to purchase and sale agreements, deeds, leases, City Council resolutions, municipal ordinances, correspondence, etc.
2. Identify the specific agencies or departments of the City which owned, operated, leased or controlled activities at the Site or any portion of the Site. State the present location(s) of the records of each agency or department identified. Describe the dates of involvement by each City agency or department and the nature of activity by that entity. Also identify all non-City persons or employees who were involved with the City in connection with activities at the Site, either as owner or operator.
3. Describe in detail the operations of the landfill on the Site, including the type of operation conducted; method(s) of waste handling, disposal or reduction; any concurrent salvage or recycling operations; specific types of waste accepted (e.g. residential, commercial, industrial, etc.); method of transporting waste to the Site; identities of major transporters; and any other information concerning landfill operations during each of the following time periods:
 - a. 1909-1919
 - b. 1920-1929
 - c. 1930-1939
 - d. 1940-1949
 - e. 1950-1959
 - f. 1960 until the City discontinued use of the Site. Identify all documents that describe the City's operations at the Site, the City's operations of incinerators that contributed materials to the Site, including documents regarding procedures and regulations, as well as routine and special reports and studies.
4. Provide a description of the method(s) of waste collection, i.e. how waste was transported, by whom, from what location(s), etc., and the persons, agencies, or entities involved with collection of waste for disposal at the Site.
5. Describe the procedures and facilities for waste receipt at the Site.
6. Provide a description of the method of waste disposal (e.g. whether the waste was

compacted or crushed prior to disposal), the thickness of waste deposited and the amount of clean cover on top of the waste.

7. Identify the specific agencies or departments of the City which provided for disposal of commercial and industrial wastes (as opposed to household garbage) from 1909 to 1969, and the agencies or departments which tracked shipping and charged disposal fees for commercial or industrial wastes at City landfills. State the present location(s) of the records of each agency or department identified.
8. Provide copies of any records in the City's possession showing shipments of (or invoices or other charges for shipments of) commercial or industrial waste to the Agriculture Street landfill. Provide copies of any invoices or other documents showing charges for shipping or disposal. Provide narrative and documentary information as to any commercial or industrial waste received at the Landfill, including but not limited to copies of:
 - a. shipping manifests;
 - b. shipping logs
 - c. receipts
 - d. weight tickets; and/or
 - e. permits
 - f. bills of lading
 - g. invoices
 - h. contracts
 - i. other written communications.
9. List industrial, commercial, military, and other facilities located a) along the Industrial Canal, b) in East New Orleans, and c) along the Mississippi River and Lake Pontchartrain from which wastes were collected and transported to or otherwise accepted at the Site. For each facility, specify the type of wastes or other materials received, the chemical composition, or other descriptive or identifying factors.
10. State whether any of the City dumps, landfills, or other disposal areas accepted commercial or industrial waste, together with the dates of operation of such disposal facilities including but not limited to the Gentilly Landfill in East New Orleans, the City Park Area dump, and the Site. Provide an estimate of the percentage of the City's commercial and industrial waste sent to or received at each facility.
11. Provide the dates and circumstances under which isolated events (e.g., strikes by sanitation workers, fires, floods, etc.) resulted in temporary landfill closures, and whether waste from other areas of the City were diverted to the Site during such events.
12. Provide information about the physical characteristics of the Site, including but not limited to the following: property boundaries, surface structures (buildings, roads, rail lines, etc.), waste piles, lagoons, ponds, or pits, subsurface disposal fields, disposal cells,

other underground structures, additions, demolitions or changes of any kind on, under or about the Site, its physical structures or to the property itself (e.g., excavation work), together with approximate dates such changes were made.

13. Provide all maps and drawings of the Site in your possession.
14. Provide a list of all transporters (names, addresses, EPA Identification numbers if known) disposing of waste at the Landfill by year. If the waste was disposed of pursuant to a written statement, provide a copy of any contracts or agreements. If no written contract existed, describe the terms of the oral agreement.
15. Identify City employees or other persons responsible for the financial recordkeeping for the Landfill.
16. Identify all persons directly involved in overseeing activities at the Site, including City employees or contractors who have knowledge, information or documents about the landfill and/or salvage operations, together with the nature and date of the person's involvement.
17. Provide narrative and documentary information as to any waste or other materials transported offsite from the Landfill, including but not limited to copies of:
 - a. shipping manifests;
 - b. shipping logs
 - c. receipts
 - d. weight tickets; and/or
 - e. permits
 - f. bills of lading
 - g. invoices
 - h. contracts
 - i. other written communications.
18. Identify all companies, entities, or persons whose chemicals, hazardous wastes, hazardous substances or other commercial or industrial waste materials have ever been treated, stored, disposed of, or otherwise handled at the Site, including information regarding the following:
 1. Location and address of each such company or person who sent such materials, including contact person(s) within said companies or entities;
 2. The chemical composition, characteristics, physical state (e.g., solid, liquid) of each commercial or industrial waste material;
 3. Shipping records pertaining to such materials sent by each such company, entity or person, including but not limited to invoices, bills of lading, weight tickets, and purchase orders; and
 4. identification and location of all companies, entities, and individuals who

transported said materials.

19. Describe all studies, reports, inspections, evaluations, and safety audits sampling or other types of examinations, correspondence and any other documents associated with the conditions, practices, and/or operating procedures at the Site from the beginning of City involvement to the present. Identify all documents that discuss these activities.
20. Provide information about City measures taken in response to recommendations related to the Incinerator and Landfill operations affecting the Site, including but not limited to those contained in the 1951 Report.
21. Provide information and documentation of insurance policies which may cover City operations of the landfill from 1909 to 1969.
22. Provide the dates and circumstances under which the City discontinued use of the Landfill. If use was discontinued more than once, please describe all instances. Describe the conditions of the Landfill when the City discontinued use.
23. Identify person(s) at the City responsible for environmental matters related to the incinerators and the Landfill from the beginning of City involvement to the present.
24. Identify by name and location all of the waste disposal incinerators owned or operated by the City, including but not limited to any incinerator located on the Site. Describe systems for selection and delivery of waste to the incinerators and operation of the incinerators. State the approximate dates and methods of delivery of ash and other incinerator residual materials to the Site, including the results of any sampling of ash or residuals.
25. If any of the documents solicited in this information request are no longer available, please indicate the reason why they are no longer available. If the records were destroyed, provide the following:
 1. The document retention policy between 1909 and 1969;
 2. a description of how the records were destroyed (burned, shredded, trashed, etc.) and the approximate date of destruction;
 3. a description of the type of information that would have been contained in the documents;
 4. the name, job title and most current address of the person(s) who would have produced these documents, the person(s) who would have been responsible for the retention of these documents; the person(s) who would have been responsible for the destruction of these documents; and the person(s) who had and/or still may have the originals or copies of these documents;
 5. the names and most current address of any person(s) who may possess documents relevant to this inquiry.

26. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any question contained herein or who may be able to provide additional responsive documents, identify such persons and the additional information or documentation that they may have.
27. For each and every question contained herein, if information or documents responsive to this information request are not in your possession, custody or control, then identify the persons from whom such information or documents may be obtained.